



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/677,577   | 10/03/2000  | Iwao Masuyama        | 723-939             | 5668             |
| 27562  | 7590        | 12/06/2006           | EXAMINER            |                  |
| NIXON & VANDERHYE, P.C.<br>901 NORTH GLEBE ROAD, 11TH FLOOR<br>ARLINGTON, VA 22203 |             |                      | LEIVA, FRANK M      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3714                |                  |

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/677,577             | MASUYAMA ET AL.     |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Frank M. Leiva         | 3714                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 August 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6,9-27,30-42, and 45-54 is/are pending in the application.  
 4a) Of the above claim(s) 1,9,15-22,30, and 36-42 is/are withdrawn from consideration.  
 5) Claim(s) 7,8,28,29,43, and 44 is/are allowed.  
 6) Claim(s) 2-6,10-14,23-27,31-35, and 45-54 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/11/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 10-05-2005 has been entered.

### ***Information Disclosure Statement***

2. The failures of the information disclosure statement filed 2-27-2001 have been corrected by the submission of the foreign and NPL on 8-11-2005. The examiner has made the corrections and signed the PTO-1449 form.
3. The information disclosure statement filed August 11th, 2005 complies with 37 CFR 1.97(d and e), and 37 CFR 1.98. It has been taken in consideration by the examiner.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2-6, 10-14, 23-27, 31-35, and 45-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Chiang Shiung-Fei (US 4,895,376), referenced herein as Fei.

6. Regarding claims 2-6, 14, 23-27, 33-35, and 45-54 Fei teaches a game apparatus including: a game/game space/character/display/simulation control program and related storage sections (Elm 104 & Col 6:56-58); a player held housing (Figure 1); a game space display integrated into said player held housing (Elm 50 Figure 2); a change state detection device for detecting the amount and direction of a change in device orientation, tilt, and/or equivalently described impact (Figures 4-6 & Col 6:4-28); a processor for executing said game and character programs, and generating game characters on said display responsive to said change state detection (Elm 104 & Abstract). As presented the display perspective of Fei is altered based on the user's tilting of the game housing (Figures 3 & 4). This change of perspective also referred to by Fei as scrolling in figure nine is understood as responsive to the direction of tilting resulting in a specific direction of scrolling) and an amount of tilting wherein said amount tilting is understood as a positive amount or alternatively zero. In similar fashion the resultant character moving speed related to the amount tilting (or the direction of tilting)

is correlated as the existence or non-existence of horizontal character movement.

Where the movement of a character would be definition have an associated speed of movement when moving.

7. Regarding claims 10, and 31, Fei teaches a non-player character (tank) that proceeds in a predetermined motion in the game space in the absence of player interaction (Figure 5). Upon the occurrence of player interaction the non-player character proceeds in a combination of the original predetermined motion and motion derived from the player interaction.

8. Regarding claims 11-13 and 32, Fei teaches multiple movement paths which are dependent on the user's orientation in the game world and characters (tanks) that move along different paths based on the user's perspective (Figure 6) this equated to "a display area defined such that, when the moving character moves on the game space, the moving character is different in action from that in another area". The display space is demonstrated to be smaller then the total game space in figure 6b-6c where the resulting scrolling from user interaction has cause a portion of trees not previously shown in figure 6b to become visible on the right of the display space in figure 6c.

9. Regarding claims 2-5, 11, 23-26, 32, and 51-54 amended feature, Fei teaches that the game space is virtual and that only the size of the display limits the view of the characters in the displayed game. Other embodiments such as the driving game would show the player character displayed on the screen as to avoid other drivers. (Col 7:67-68, Col 8:1-59)

***Allowable Subject Matter***

10. Claims 7-8, 28-29, 43, and 44 are allowed.
11. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record including the newly cited art of Fei (US 4,895,376) fails to incorporate the change state detector along with game program storage means into a detachable cartridge.

***Response to Arguments***

12. The applicant posed 2 arguments:
13. "Fei fails to disclose a character control program, which moves a character within displayed game space... related to the movement applied to the housing..."
14. The examiner's view from Col 1:22-33 that the character could be also called indicia and it depends directly on the type of game.
15. From Col 1:60 through Col 2:16, the summary of the invention teaches the indicia is moved through the game using a control system and directed by the movement of the housing.
16. "In marked contrast, the present invention is directed toward moving a character with the displayed game space, rather than changing the perspective view of the entire game space."
17. Fei's invention talks about moving a car through traffic on the driving embodiment, but the view of the game is related to the type of screen and the viewable game. In Fei's invention the characters are moving in the game area and directed by the

moving of the housing, Fei's display just shows the view from the gun barrel or the periscope. (Background of the invention columns 1 and 2).

***Conclusion***

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

JOHN M. HOTALING, II  
PRIMARY EXAMINER

